

RECORDATION NO. 25566-B FILED

APR 29 '05

3-10 PM

SURFACE TRANSPORTATION BOARD

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SUITE 301  
WASHINGTON, D.C.

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ELLSWORTH C. ALVORD (1964)

20036

OF COUNSEL  
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April 29, 2005

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Re: Nabisco, Inc. Leases

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of March 25, 2005, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Assignment of Lease Agreement being filed with the Board under Recordation Number \_\_\_\_\_.

The names and addresses of the parties to the enclosed document are:

Seller: General Electric Railcar Services Corporation  
161 North Clark Street, Suite 700  
Chicago, Illinois 60601

Buyer: The Andersons, Inc.  
480 West Dussel Drive  
Maumee, Ohio 43537

Mr. Vernon A. Williams  
April 29, 2005  
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A description of the railroad equipment covered by the enclosed document  
is:

16 hopper cars: NAHX 550544 - NAHX 550559.

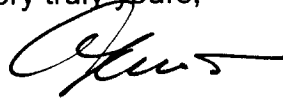
A short summary of the document to appear in the index is:

Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$32.00 payable to the order of  
the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the  
undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Alvord', with a long horizontal flourish extending to the right.

Robert W. Alvord

RWA/anm  
Enclosures

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**ASSIGNMENT AND ASSUMPTION AGREEMENT**

**SURFACE TRANSPORTATION BOARD**

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of March 23, 2005 (this "Agreement"), is between General Electric Railcar Services Corporation, a Delaware corporation (the "Seller"), and The Andersons, Inc., an Ohio corporation (the "Buyer").

**RECITALS**

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement, dated as of March \_\_, 2005 (the "Purchase Agreement"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

**AGREEMENT**

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.

2. **Assignment.** Effective as to each unit of Equipment on the Closing Date, the Seller sells to the Buyer all of the Seller's rights, title and interest in and to such unit and assigns to the Buyer all of the Seller's rights and obligations under the Lease and, to the extent incorporated therein, the Master Lease (together, the "Operative Agreements"). Notwithstanding the foregoing assignment, the Seller shall continue to be entitled to the benefit of any right to indemnification for tax or other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the Closing Date, as specified in the Purchase Agreement.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Operative Agreements. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Operative Agreements and each reference in the Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the Seller under the Operative Agreements.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

**Bill of Sale:** the bill of sale in the form of Exhibit I hereto.

**Closing Date:** the date of the Bill of Sale.

**Equipment:** the units of equipment listed on Schedule 1 hereto.

**Lease:** Rider No. 6 Renewal No. 3 to Car Leasing Agreement 5965-83, dated March 10, 2005, between Seller and Lessee.

**Lessee:** Nabisco, Inc., sometimes known as Nabisco, Incorporated.

**Master Lease:** Car Leasing Agreement 5965-83, dated as of March 14, 1984, between Seller and Lessee.

**Ownership Interest:** the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Operative Agreements.

5. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

7. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of Illinois, without giving effect to its conflict of law rules.

10. **Entire Agreement.** This Agreement, the Purchase Agreement, and the Bill of Sale (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

**GENERAL ELECTRIC RAILCAR  
SERVICES CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE ANDERSONS, INC.**

By: Gary Smith  
Name: Gary Smith  
Title: Vice President, Finance and Treasurer

State of Ohio     )  
                              )  
County of Lucas    )

On this, the 25<sup>th</sup> day March, 2005, before me, a Notary Public in and for said County and State, personally appeared Gary Smith, Vice President, Finance and Treasurer of The Andersons, Inc., who acknowledged himself to be a duly authorized officer of The Andersons, Inc., and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Judy A. Baldwin  
Name Judy A. Baldwin  
Notary Public

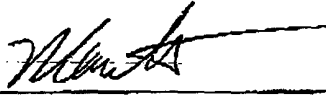
My Commission Expires: 2/01/2010  
Residing in: Wood County



JUDY A. BALDWIN  
Notary Public, State of Ohio  
Commission Expires 2/01/2010

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

**GENERAL ELECTRIC RAILCAR  
SERVICES CORPORATION**

By:   
Name: Mark A. Stefani  
Title: Vice President

**THE ANDERSONS, INC.**

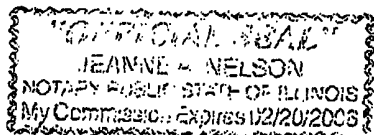
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

State of ILLINOIS )

County of COOK )

On this, the 25<sup>th</sup> day of March, 2005, before me, a Notary Public in and for said County and State, personally appeared Mark A. Stefani, a Vice President of General Electric Railcar Services Corporation, who acknowledged himself to be a duly authorized officer of General Electric Railcar Services Corporation, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.



A handwritten signature in cursive script, appearing to read "Jeanne A. Nelson", written over a horizontal line.

Name: Jeanne A. Nelson  
Notary Public

My Commission Expires: February 20, 2006  
Residing in: Cook County



**Schedule 1**

(List of Equipment)

**[GE Rail to provide]**

**List of Equipment  
Nabisco**

5150 cf PD Hopper

<u>Unit Count</u>	<u>Lessee</u>	<u>AAR Reporting Mark</u>	<u>AAR Car Code</u>
1	Nabisco, Inc.	NAHX 550553	C614
2	Nabisco, Inc.	NAHX 550549	C614
3	Nabisco, Inc.	NAHX 550559	C614
4	Nabisco, Inc.	NAHX 550551	C614
5	Nabisco, Inc.	NAHX 550552	C614
6	Nabisco, Inc.	NAHX 550556	C614
7	Nabisco, Inc.	NAHX 550545	C614
8	Nabisco, Inc.	NAHX 550544	C614
9	Nabisco, Inc.	NAHX 550546	C614
10	Nabisco, Inc.	NAHX 550547	C614
11	Nabisco, Inc.	NAHX 550557	C614
12	Nabisco, Inc.	NAHX 550554	C614
13	Nabisco, Inc.	NAHX 550558	C614
14	Nabisco, Inc.	NAHX 550555	C614
15	Nabisco, Inc.	NAHX 550550	C614
16	Nabisco, Inc.	NAHX 550548	C614

**CERTIFICATION**

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: April 29, 2005

A handwritten signature in black ink, appearing to read 'R. Alvord', written over a horizontal line.

Robert W. Alvord